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Attorneys for the Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
The Honorable STANLEY ALLEN BASTIAN

United States of America,

Plaintiff,

v.

Charlie J. Peters,

Defendant.

Case No. 1:20-cr-2046-SAB

**Defendant's Reply Memorandum in
Further Support of Motion for
Discovery**

Yakima - Oral Argument Requested

The defendant, Charlie Peters, respectfully submits this brief reply in opposition to the Government's response [ECF Document No. 26] to his earlier-filed motion to compel production of unredacted discovery [ECF Document No. 23]. The government does not appear to deny its disclosure requirements, but instead seems to argue that whatever obligation exists should be excused because it should be up to Mr. Peters himself to educate defense counsel about the particulars of the case and the information sought. This has it backwards.

Mr. Peters would be within his rights to decline to say a word to defense counsel about the allegations or the complainant. And yet he still would have certain statutory

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1 and constitutional rights, including to the effective assistance of counsel. Part of the
2 reasons for Rule 16 and discovery in the first place is to spare lawyers the unpleasant duty
3 of prying information from reluctant or deluded clients¹. The government's obligations
4 are not impacted by whether Mr. Peters decides or declines to fill in the blanks created by
5 what the government deems permissible to disclose.
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7 The government's logic, carried further, would obviate the need for it to turn over
8 much of the discovery that Rule 16 requires. Its response evinces a misapprehension as to
9 communications between defendants and their lawyers. Despite the presumption of
10 innocence, the government assumes there is something for Mr. Peters to tell. Suppose he
11 is confused by the charges. Or what if there is simply nothing to disclose on Mr. Peters'
12 part? The Court should not decide the motion on the assumption there is. And a
13 conversation between Mr. Peters and defense counsel along the lines of what the
14 government apparently envisions could risk considerable damage to the attorney-client
15 relationship, particularly at a precarious time when we are still establishing that
16 relationship and building trust and confidence.
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19 Nor does the provision of certain information, for example, as to the timing or
20 location of the allegations, lessen the need for the government to turn over other critical
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24 ¹ Nothing in this motion should be read to indicate that Mr. Peters has been uncooperative or
25 obstreperous.

1 information. Put differently, knowing the when and where does not compensate for
2 ignorance as to the who. Further, contrary to at least the implicit representations in the
3 government's brief, we are not asking for wholly unredacted discovery materials. For
4 example, contact information such as a telephone number or identifying information such
5 as a social security number, is often redacted without complaint by the defense. But not
6 the name of the complainant and other key witnesses.
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8 The government's concerns for the need to retain the confidentiality of certain
9 sensitive information could be amply met by a protective order. But that is the remedy
10 for such concerns, not selective disclosure that withholds key information. Finally, the
11 government cites the need to redact Mr. Peters' and others' recorded statements before
12 disclosure, and as the justification for why they still have not been turned over (over one
13 month since Mr. Peters' arraignment, and two months since he was indicted). But that is
14 part of the problem; they should not be redacted in the first place, and they should have
15 been turned over weeks ago. And it makes no sense to redact portions of Mr. Peters' own
16 interview statement such that defense counsel does not even know certain things *he* said
17 or that were said *to him*. It is to avoid disputes like this that we have the Local Rule
18 requiring the government to turn over discovery within 14 days of arraignment. For these
19 reasons, we ask the Court to grant the motion.
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1 Dated: February 11, 2021

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3 Respectfully submitted,

4 S/Jeremy B. Sporn

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14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on February 11, 2021, I electronically filed the foregoing
16 with the Clerk of the Court using the CM/ECF System which will send notification of
17 such filing to the following: Michael D. Murphy, Assistant United States Attorney.

18 S/Jeremy B. Sporn

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